

## Article 12. Conditional Use Permits

### ARTICLE 12. CONDITIONAL USE PERMITS

#### 12.01 Planning Board to Administer

Wherever a conditional use is authorized by this ordinance, the authority to administer or grant conditional use permits shall be vested in the Planning Board. The duration of a conditional use permit shall be defined by the provisions of Article 15, Section 15.03 Expiration of Permits and Approvals.

#### 12.02. Application and Review Procedure

An application for a conditional use shall be initiated by filing with the Planning Board for an application for a conditional use permit. The following procedures shall apply to the processing of such application:

A. Procedure if Subdivision or Site Plan Approval Also Required. Where other required development approvals for a conditional use include subdivision or site plan approval by the Planning Board, the application and review procedure for a conditional use permit shall be made concurrently and in accordance with the procedures specified in the Subdivision Regulations or Site Plan Regulations as applicable to the particular development.

B. Procedure if Subdivision or Site Plan Approval Not Required. Where no subdivision or site plan approval would otherwise be required for the conditional use, the application and procedural requirements of the Site Plan Regulations shall be applied to the application and processing of conditional use permits with respect to content of applications, requirements for public notice, hearings and timing of decisions by the Planning Board.

#### 12.03 Burden of Persuasion

The applicant shall bear the burden of persuasion, through the introduction of sufficient evidence through testimony or otherwise, that the development, if completed as proposed, will comply with this Article and will satisfy the specific requirements for the use contained in the ordinance.

#### 12.04 Standards of Review

In reviewing an application for a conditional use permit, the Planning Board shall consider the following information in its deliberations, as applicable to the case:

A. Specific authorization for the conditional use in Article 5, Sections 5.10 and 5.11 Table of Principal Uses and Table of Accessory Uses;

B. Compliance of the development plan with the specific standards for such use contained in the zoning ordinance;

- C. The results of any special investigative or scientific studies prepared in association with the proposed development;
- D. Special reports or analysis of the project or its impacts, prepared by the City or consultants;
- E. The findings, goals and objectives of the City Master Plan;
- F. The relationship of the development to the timing, location and cost of public improvements scheduled in the Capital Improvements Program; and
- G. Testimony and evidence introduced at the public hearing on the application.

#### **12.05 Hearing and Decision**

Following a public hearing on the proposed use, the Planning Board shall issue a conditional use permit, if it finds, based on the information and testimony submitted with respect to the application, that:

- A. The use is specifically authorized by Article 5, Section 5.10 or 5.11, Table of Principal Uses or Table of Accessory Uses as a conditional use;
- B. If completed, the development in its proposed location will comply with all requirements of this Article, and with specific conditions or standards established in this ordinance for the particular use;
- C. The use will not materially endanger the public health or safety;
- D. The use will not substantially de-value abutting property;
- E. The use will be compatible with the neighborhood and with adjoining or abutting uses in the area in which it is to be located;
- F. The use will not have a substantial adverse impact on highway or pedestrian safety;
- G. The use will not have a substantial adverse impact on the natural and environmental resources of the City; and
- H. Adequate public utilities and community facilities are available to the property to ensure that the proposed use will not necessitate excessive public expenditures in providing public services.

### **12.06 Stipulations of Approval**

In granting a Conditional Use permit, the Planning Board may attach reasonable conditions to its approval, including but not limited to the phasing of a development, where such conditions are shown to be necessary to further the objectives of this ordinance and the master plan, or which would otherwise allow the general conditions of this Article to be satisfied. Representations made at a public hearing, or in material submitted to the Planning Board by an applicant, to obtain a Conditional Use permit shall be deemed conditions for the issuance of the permit. All conditions of approval shall be stated in writing in the issuance of a permit. The Planning Board may require that such conditions be annotated on a site plan or subdivision plat, or otherwise recorded at the Hillsborough County Registry of Deeds.

### **12.07 Appeals**

Any persons aggrieved by a Planning Board decision on a Conditional Use permit may appeal that decision to the Superior Court, as provided for in RSA 677:15. A Planning Board decision on the issuance of a Conditional Use permit cannot be appealed to the Zoning Board of Adjustment. (RSA 676:5, III)